

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 507(c)
Title 14, California Code of Regulations
Re: Prohibition on Electronic or Mechanically-operated Devices

- I. Date of Initial Statement of Reasons: May 20, 2002
- II. Date of Pre-adoption Statement of Reasons: July 24, 2002
- III. Date of Final Statement of Reasons: September 4, 2002
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: June 20, 2002
Location: South Lake Tahoe, California
 - (b) Discussion Hearing Date: August 2, 2002
Location: San Luis Obispo, California
 - (c) Adoption Hearing: Date: August 30, 2002
Location: Oakland, California
- V. Update:

No modifications were made to the originally proposed language of the Initial Statement of Reasons.

The Fish and Game Commission adopted the Department's proposal to clarify the existing language in Section 507 at the 08/30/02 Fish and Game Commission meeting in Oakland.
- VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

There were no public comments prior to the Pre-Adoption Statement of Reasons. The following are public comments received from August 2 through August 30, 2002.

Eleven letters dated 08/06/02 through 08/22/02 and oral testimony by Blake Millar at the 8/02/2002 FGC meeting and Eric Mills at the 08/30/02 FGC meeting: recommend eliminating the use of mechanical spinning wing decoys.

Department Response: Spinning wing decoys received widespread use during the 1998-99 hunting season and their use has increased since then. Early anecdotal reports indicated higher hunting success with the device, and its use has been widely debated.

In 2001, The Fish and Game Commission adopted a prohibition on the use of spinning wing decoys prior to December 1 to evaluate the possible role of spinning wing decoys on harvest variables. At the time it was enacted this evaluation was proposed to extend through the 2002-03 hunting season in order to compare the timing of harvest in 1999-2000 and 2000-2001 to the timing of harvest in 2001-2002 and 2002-2003. Different or additional regulation recommendations may be made after this evaluation.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:
Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

Amend the regulation to prohibit the use of mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl between the start of the waterfowl season and the Saturday closest to December 1.

(b) No Change Alternative:

The No Change Alternative would continue a regulation that would allow the use of spinning blade devices or spinning wing decoys beginning on December 2. This is an unusual date for regulation changes and difficult to remember.

- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation(s) are intended to provide additional recreational opportunity to the public. The response is expected to be minor in nature.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

Updated Informative Digest (Policy Statement Overview)

Existing regulation in Section 507(c), Title 14 California Code of Regulations (CCR) prohibits the use of electronic or mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl between the start of the waterfowl season and December 1. Existing regulation in Section 1.41 Title 14 CCR specifies that dates of seasons and closures are inclusive. The proposed change would clarify the intent of section 507(c) to prohibit the use of mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl prior to December. The proposed clarification would specify that the use of mechanically operated spinning blade devices or spinning wing decoys when attempting to take waterfowl would be prohibited prior to November 30.

The Fish and Game Commission adopted the Department's proposal to clarify the existing language in Section 507 at the 08/30/02 FGC meeting in Oakland.

Section 507, Title 14, CCR, is amended to read:

(a) Authorized Methods. Only the following methods may be used to take migratory game birds:

(1) Falconry.

(2) Bow and Arrows or Crossbows. Only arrows or crossbows bolts with flu- flu fletching may be used except that conventionally fletched arrows may be used to take waterfowl sitting on the water from scullboats or similar watercraft. Archers hunting during any archery season may not possess a firearm while in the field engaged in archery hunting.

(3) Muzzle-loading Shotguns.

(4) Shotguns 10 Gauge or Smaller. Shotguns 10 gauge or smaller using shot shells only and incapable of holding more than three shells in the magazine and chamber combined may be used. except no shotgun larger than 12 gauge shall be used in areas open to hunting on, over or adjacent to the waters of Morro Bay, San Luis Obispo County. If a plug is used to reduce the capacity of a magazine to fulfill the requirements of this section, the plug must be of one piece construction incapable of removal without disassembling the gun. Shotgun shells may not be used or possessed that contain shot size larger than No. BB in lead or T shot in steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service. All shot shall be loose in the shell.

(b) Use of Dogs. Dogs may be used to take and retrieve migratory game birds.

(c) Prohibition on Electronic or Mechanically-operated Devices. Electronic or mechanically-operated calling or sound-reproducing devices are prohibited when attempting to take migratory game birds. It is unlawful to use electronic or mechanically-operated spinning blade devices or spinning wing decoys when attempting to take waterfowl between the start of waterfowl season and ~~December~~ November 30. For the purposes of this regulation, wind-powered spinning blade devices and kites are not prohibited.

(d) Live Decoy Prohibition. The use of live decoys is prohibited when attempting to take migratory game birds.

NOTE

Authority cited: Section 355, Fish and Game Code. Reference: Sections 355, 356 and 3005, Fish and Game Code.